

STATE OF MASSACHUSETTS)
) ss. AFFIDAVIT OF WILLIAM T. FALLON
County of Suffolk

1.) I, William T. Fallon, am the Acting United States Marshal for the District of Massachusetts (D/MA). I was appointed for this position by United States Attorney General Alberto Gonzales on October 3, 2005 and was sworn into office by Chief Judge William Young, District of Massachusetts, on October 21, 2005. I have over 17 years of continuous law enforcement experience, all of which with the United States Marshals Service (USMS). I have served in various management capacities during my career with the USMS to include Chief Deputy US Marshal and in the District of Massachusetts (D/MA) and the District of Oregon (D/OR), Acting Chief Deputy US Marshal in the D/RI, and Supervisory Deputy US Marshal in the Districts of Rhode Island (D/RI) and Northern Ohio (N/OH). I also served for a brief time as Acting United States Marshal in the D/OR appointed by then United States Attorney General John Ashcroft.

2.) In response to Chief Judge Mark L. Wolf's March 10, 2006 order for explanation of the USMS failure to obey the December 05, 2005 order, I was not informed of the situation regarding Edwin Serrano until March 16, 2006. Mr. Serrano was transferred to the Massachusetts State Police (MSP) on March 16, 2006 and was produced by the MSP in Middlesex County District Court for the hearing in question.

3.) A writ of habeas corpus by Middlesex County Superior Court was issued and received by the USMS on February 13, 2006. The date of the hearing was February 24, 2006. The writ was not honored by the USMS because of the failure of the Middlesex County District Attorney's (DA) office to provide the information required per the USMS policy and procedures for honoring a state writ. Roger Witkin, Mr.

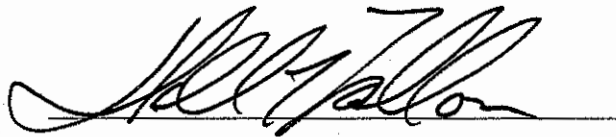
Serrano's defense counsel, was provided with the USMS requirements for honoring state writs of habeas corpus on two separate occasions by Supervisory Deputy US Marshal (SDUSM) Alison Hodgkins and was responsible for ensuring the required information was given to the Middlesex County DA's office in order for future writs for Mr. Serrano to be honored. The writ received on February 13, 2006 and duplicate received on February 22, 2006 did not contain the seal of the court and did not have any contact information in order for SDUSM Hodgkins to work out the details of the production, both of which were clearly required in the procedures given to Mr. Witkin. In my December 17, 2005 affidavit on this case (see attachment) I listed the specific requirements needed by our office to honor state court writs. The information in the affidavit was provided to Mr. Witkin for a second time on January 9, 2006 by SDUSM Hodgkins. SDUSM Hodgkins contacted Dennis O'Leary, courtroom deputy clerk to Chief Judge Wolf, on February 14, 2006 to ascertain the sentencing date of Mr. Serrano in order to determine when the issue with Middlesex County had to be resolved. On February 23, 2006 SDUSM Hodgkins contacted Assistant United States Attorney (AUSA) Peter Levitt to see if the Middlesex County DA's office had contacted him regarding the writ per the instructions of the USMS, which did not happen. Prior to the day of the February 24, 2006 Middlesex County Court date, the Middlesex County DA's office had not complied with the requirements of the USMS and did not make any attempt to have state authorities assume custody of Mr. Serrano for the hearing.

4.) On February 24, 2006, Middlesex County Assistant District Attorney (ADA) Jessica Langsman contacted SDUSM Hodgkins to see if Mr. Serrano was being brought in by the USMS for the hearing. At that time, SDUSM Hodgkins explained USMS

policy and procedures and the need for the ADA to comply with all requirements for the USMS to allow state officials to assume custody of prisoners for state hearings. SDUSM Hodgkins informed ADA Langsman the USMS, by policy, does not produce prisoners for state courts. On Monday, February 27, 2006 ADA Langsman contacted SDUSM Hodgkins to schedule a new date for the Middlesex County Court hearing for Mr. Serrano. The new court date, March 16, 2006 was agreed to by SDUSM Hodgkins pending the ADA completion of all USMS requirements. Once the requirements were met by the ADA, SDUSM Hodgkins made arrangements for Mr. Serrano to be delivered to the Boston Moakley Courthouse, where two Massachusetts State Police (MSP) officers took custody and produced Mr. Serrano in Middlesex County Court for the hearing. The MSP officers returned Mr. Serrano to the USMS office in the Boston Moakley Courthouse later that same day of the hearing, March 16, 2006.

5.) In response to the timeliness of my affidavit, as I stated earlier I was not aware of the order issued by Chief Judge Wolf on March 10, 2006 until March 16, 2006. The USMS did receive the order on March 10, 2006. The administrative employee who received the order placed the order on his desk instead of delivering the order to SDUSM Hodgkins. The same administrative person proceeded to take sick leave the next three days (Monday, March 13, 2006 through Wednesday, March 15, 2006) with the order remaining on his desk. Once the administrative employee returned to work on March 16, 2006, the order was given to SDUSM Hodgkins. I spoke with USMS administrative officer (AO) William Ryan and expressed my concern over the issue. AO Ryan has instituted new receiving procedures for our administrative staff which should eliminate the possibility of this type of incident from occurring again and imposed disciplinary

action on the employee. Once I became aware of the situation, I was informed by SDUSM Hodgkins that the writ was honored, the prisoner was produced and that no further action was required. It was not until March 23, 2006 during a conversation between SDUSM Hodgkins and Mr. O'Leary was it known that this affidavit was still required. I have counseled and warned my staff on obtaining exact, accurate information and responding to it in a timely fashion and I take complete responsibility for the tardiness of this affidavit. Please accept my apology for the delay in the receipt of this affidavit per the March 10, 2006 order.



WILLIAM T. FALLON
Acting United States Marshal
District of Massachusetts

SUBSCRIBED AND SWORN to before me this 23rd day of March, 2006.



Notary Public for Massachusetts

My commission expires:

MAY 11, 2012